

The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel in Illinois. See 86 Ill. Adm. Code 480.101. (This is a GIL.)

November 17, 2003

Dear Xxxxx:

This letter is in response to your letter dated September 23, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.1120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

As the authorized local taxing body for hotel tax in COUNTY, we are seeking a legal ruling for a new situation we have encountered in our area. Please respond with a private letter ruling.

A lodging property recently sold most of its privately owned condos (55) to a timeshare company: AAA. The remainder of the units (about 10) are being managed by a vacation rental agent who actively promotes overnight lodging to visitors who stay less than 30 days; guests are paying local and state hotel tax.

**Do timeshare guests staying for less than 30 days at the AAA IL property incur a state and local hotel tax liability?** I understand that sometimes 'points' are used to book the units - that a cash transaction may not occur. Investigation of AAA's web site includes this occupancy tax mention:

***From AAA's Web site FAQ page:***

**'Are there any additional costs besides my one-time vacation credit purchase?**

Besides your one-time vacation credit purchase, you're required to pay annual maintenance dues. These nominal charges ensure all AAA resort properties are kept in prime condition. Maintenance dues are commensurate with the number of credits you own and may be paid annually, bi-annually, or quarterly, whichever you prefer.

'The AAA Board of Directors sets maintenance dues. The Board does not increase dues automatically each year; rather, the Board raises dues only when necessary to sustain resort operations. As a AAA owner, you vote for the Board of Directors, so you have a say in how resorts are managed. In the past, typical increases have been 6% or less.

Other than maintenance dues, you may incur modest housekeeping fees, occupancy tax (where applicable) and exchange fees (if you exchange your vacation credits for accommodations outside of the AAA network). There are no real estate taxes (they are covered in your maintenance dues) and no additional or 'hidden' fees of any kind.'

We look forward to an official ruling on this topic. Thank you for your cooperation.

The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel in Illinois. See 86 Ill. Adm. Code 480.101. The tax applies to gross receipts received from a person who occupies a room or becomes irrevocably liable to pay rent for the right to occupy a specific room or rooms. The only exemptions available to a hotel operator are for rentals to permanent residents and to certain diplomatic personnel. Permanent residents are persons who occupy or have the right to occupy such rooms for at least thirty consecutive days. See 86 Ill. Adm. Code 480.101(a)(1).

It is difficult from the limited information in your letter to make a determination as to whether timeshare guests staying for less than 30 days incur Hotel Operators' Occupation Tax. If the timeshare is similar to a membership in an organization where you can stay at multiple places based upon your membership and you are not guaranteed a specific room, condo or house, then the timeshare would incur Hotel Operators' Occupation Tax. However, if the timeshare is more like a joint ownership in a room, condo or house with the members getting to use the property for a specific time period a year, then it is more like ownership and Hotel Operators' Occupation Tax would not apply.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

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